

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

CRIMINAL DOCKET NO.

v.

THOMAS J. TOTORO

RECEIVED IN  
CHAMBERS OF

JAN 30 2008

JOSEPH E. IRENAS, U.S.D.J.

MOTION FOR MODIFICATION OF PREVIOUSLY IMPOSED SENTENCE  
OR RECONSIDERATION

Comes Now, Thomas J. Totoro, the defendant, Pro Se, in the above entitle cause and moves this court Pursuant to Title 18 U.S.C. § 3582 (a)(3) of Criminal Rules and Procedures, and respectfully requests that this Honorable Court modify the sentence previously imposed by this court in the aforementioned criminal docket no.

**STATEMENT OF FACTS**

On or about September 2007, defendants attorney and AUSA Ronald Chellemmi had a conferance off the record, in which the Attorney for the United States and the defendeant's Attorney came to an agreement that defendant would pay the whole balance of the joint restitution that the court had originally ordered, and furthermore serve a term of imprisonment of 60 days. The hearing was scheduled promptly and unexpectedly and the defendant regretfully informed the court that at moments notice defendant could only pay Ten(10) ~~thousand~~ **dollars** but explained in good faith

## STATEMENT OF FACTS CONTINUED...

the balance would be PAYED IN FULL in two weeks, but the court had declined and adjourned for one week, on the date of the hearing the defendant came to the court and the hearing was cancelled and not at that time was it rescheduled, the defendant had the understanding that he would receive an official notice from court, never did he have the understanding that the court would pass a message knowing of his unpredictable work schedule due to the fact that he has to pay a substantial amount of money and at the same time support his family. However, defendant never got notice of the new hearing cause his Attorney attempted to call him while he was at work and operating a jack hammer in which he never heard the phone ring. The defendant missed the sudden hearing with no sufficient notice ever given, so a Federal Warrant was issued and defendant was put in a predicament to choose between supporting his family or going to prison simply because his Attorney was ineffective and never gave his client a chance to be informed which led to a term of imprisonment of eight months and left his family in an array of hardships, and defendant still paid about forty thousand dollars which is an irrational amount of money to ask of a working family man that provides for his wife and children, but agreed to the plea that was worked out by defendant's Attorney and AUSA verbally.


CONCLUSION

Thomas J. Totoro was sentenced to a term of imprisonment of eight months and 1 year supervised release, even though he paid an obscene amount of money for a working man, and the most important the defendant didn't break the law the whole time on supervised release, defendant also has been a productive member of society and a good role model to his children

CONCLUSION CONTINUED ...

"Our youth today, is our generations builders tommorrow." So for defendants children to be without their father any longer then is rationally necessary would be a travesty. Defendant humbly prays that the court would resentence to a more rcasonable time and consider the original agreement that the AUSA and the defenses Attorney has mutually agreed on which was to pay the whole joint restitution and sixty days imprisonment.

On this 25<sup>th</sup> day of January, 2008


  
\_\_\_\_\_  
Thomas J. Potoro, Defendant

CERTIFICATE OF SERVICE

I, Thomas J. Totoro, certify under the penalty of perjury that I mailed a true and correct copy of the Reconsideration of sentence Title 18 U.S.C. § 3582 (a)(3), was properly furnished upon the parties listed below in a manner provided by this institution and U.S.P.S. First class postage has been PRE PAID.

Clerk of Court  
District of New Jersey  
Mitchell B. Cohen Federal Courthouse  
One John Gerry Plaza  
Fourth and Cooper Street  
Camden, New Jersey 08101

Date: 1-25-08

/s/   
Defendant, Pro Se

Thomas Tobin 2005-05-0  
Federal Correctional Institution  
PO Box 2000  
Fed Dix, N.Y.

08640

02-cr-929

Honorable Judge Joseph Iruelas  
Mitchell B. Cohen Federal Courthouse  
1 John Gerry Plaza  
Camden N.Y. 08101

Handwritten signature or initials.

